

VZCZCXRO5381
RR RUEHCHI RUEHCN RUEHDT RUEHGH RUEHHM RUEHVC
DE RUEHHK #1953/01 2940605
ZNR UUUUU ZZH
R 210605Z OCT 09
FM AMCONSUL HONG KONG
TO RUEHC/SECSTATE WASHDC 8780
INFO RUEHXS/ASSOCIATION OF SOUTHEAST ASIAN NATIONS
RUEHOO/CHINA POSTS COLLECTIVE
RUEHC/DEPT OF LABOR WASHDC
RUCPDO/DEPT OF COMMERCE WASHDC

UNCLAS SECTION 01 OF 02 HONG KONG 001953

SIPDIS

STATE FOR EAP/CM

E.O. 12958: N/A

TAGS: [ECON](#) [EFIN](#) [EINV](#) [ETRD](#) [ELAB](#) [HK](#) [CH](#)

SUBJECT: NEW FOREIGN LABOR LAW IN MACAU TO SEVERELY
RESTRICT WORKERS' ABILITY TO CHANGE EMPLOYERS

¶1. SUMMARY: Macau's Legislative Assembly passed a controversial bill on October 9 that will establish stiff criminal penalties for employers of illegal migrants. Upon becoming law in the second quarter of 2010, the bill's provisions will also impede foreign workers from changing employers in Macau and require them to leave for six months before applying for a new work permit with a different employer. Groups representing migrant workers criticized the bill, stating it would lead to increased abuse of migrant workers by employers and effectively prevent foreign workers from improving their wages by changing employers. The bill is part of broader government of Macau (GOM) efforts to replace foreign workers with Macau residents. Several legislators were disappointed that the bill did not include specific caps on imported labor. END SUMMARY

Employers of Illegal Workers Face Prison

¶2. Macau's 81,500 legal non-resident workers account for approximately one-fourth of Macau's total workforce. After a legislative debate described by local media as "heated," Macau's Legislative Assembly passed a bill on October 9 that will establish strong criminal penalties for employers of illegal foreign workers. Anyone found guilty of employing a non-resident worker without a valid work permit may be incarcerated up to two years; repeat offenders may be sentenced up to eight years. The bill states that an illegal worker found on a construction site will be presumed to have entered into an employment relationship with the respective contractor. Legal analysts stated this latter provision may violate the "presumption of innocence" principle for defendants and will likely be challenged in Macau's courts. (Note: The original draft bill submitted by the GOM to the Legislative Assembly purposely excluded special provisions and penalties for employers of foreigners on construction sites. The Legislative Assembly added the provisions to the bill's final text over the objections of Secretary for Economy and Finance Francis Tam. End Note)

Migrant Workers "Locked In" to Existing Employers

¶3. A separate controversial provision in the bill requires all non-resident workers (whether skilled or unskilled) seeking to change employers to leave Macau for six months before reapplying for a new work permit. This so-called "cooling off" period also applies to workers who terminate their employment contracts prior to expiration -- typically to join a higher-paying employer. Migrant workers noted that employers will have little incentive to provide pay raises or improve working conditions for foreign workers, as these workers will be "locked in" their current positions by the new law.

14. Various groups representing foreign workers criticized the new cooling off period, stating it would tighten the grip of Macau's employers on low-income foreign employees and lead to increased employer abuse of migrant workers. Macau NGO Care for Indonesian Migrant Workers Group spokesperson Cindri Purnasari told media sources, "I'm worried that employers will not hesitate to treat their (foreign) workers badly. And if an employer doesn't renew our contract, we will be unemployed for at least six months until we can possibly get a new work permit." She added that most foreign workers fill relatively low-paid positions and could not afford such an extended period without pay. NGO Macau Migrants Rights Network (MMRN) sent a letter signed by 2,000 workers to Legislative Assembly President Susana Chou describing the new law as "racist and discriminatory." In their letter, MMRN stated they would present their concerns to the International Labor Organization and the UN Committee to End Racial Discrimination. The Philippine Consul General in Macau released a statement on October 10 that called for the Macau government to observe applicable international labor conventions and ensure fair, non-discriminatory treatment of migrant workers.

Some Macau Legislators Want Even Tougher GOM Stance

15. Four Legislative Assembly members who represent the labor sector issued a joint declaration on October 9, after passage of the bill, stating the new law would not sufficiently protect Macau resident workers' rights. They called on Macau to cap the number of foreign workers -- both skilled and non-skilled -- and prohibit employment of foreign workers in

HONG KONG 00001953 002 OF 002

some (unidentified) sectors and professions. They also stated that real estate developers should receive stiffer punishment for the illegal workers employed by local contractors. If enacted, such a provision would impact U.S. gaming companies that might occasionally employ local contractors and thousands of migrant workers to complete the various construction projects around Macau.

16. The bill is expected to become law in 2010, 180 days after its pending publication in the Official Gazette.
MARUT